

using such property, except real property, in the manner and for the purposes authorized by DA regulations and the charter, constitution, and bylaws of the particular NAF activity.

(2) Family child care providers, authorized members of the provider's household and approved substitute providers while care under the family child care program is being provided in the manner prescribed in AR 608-10, except as excluded below. Such claims are generally limited to injuries to, or death of, children receiving care under the family child care program that are caused by the negligence of authorized providers. Claims arising from the transportation of such children in motor vehicles and claims involving loss of or damage to property are not cognizable.

(b) An ACO or a CPO will ask the Commander USARCS for an advisory opinion prior to settling any non-NAFI RIMP claim where the person whose conduct generated liability does not fall clearly within the categories listed above. Such authorities may also ask, through the Commander USARCS, for an advisory opinion from the U.S. Army Community and Family Support Center prior to settling any claim arising under paragraph (a)(2) of this section, where it is not clear that the injured or deceased child was receiving care within the scope of the family child care program.

(c) Where liability has been determined to exist for both non-NAFI RIMP and APF activities, liability will be apportioned between the two activities.

(d) The total payment for all claims (including derivative claims), arising as a result of injury to, or death of, any one person is limited to \$500,000 for each incident. Continuous or repeated exposure to substantially the same or similar harmful activity or conditions is treated as one incident for purposes of determining the limits of liability.

§ 536.156 Procedures for claims involving tortfeasors other than non-appropriated fund employees.

(a) *Reporting.* Non-NAFI RIMP claims (regardless of the amount claimed) and incidents that could give rise to non-NAFI RIMP claims will be reported to

USARCS and the Army Central Insurance Fund immediately.

(b) *Investigation.* ACOs and CPOs are responsible for the investigation of non-NAFI RIMP claims. Such investigation will be closely coordinated with program managers responsible for the activity generating the claim. Close coordination with USARCS is also required, and USARCS will maintain mirror files containing the investigative materials of all actual and potential claims.

(c) *Payment.* Non-NAFI RIMP claims will be transmitted for payment to: The Army Central Insurance Fund, ATTN: CFSC-FM-I, 4700 King Street, Alexandria, VA 22302-4406.

(d) *Commercial insurance.* The provisions of § 536.148(d) also apply to claims arising under this section, except that in claims involving family child care providers, a claims investigation will be conducted regardless of whether commercial insurance exists.

§ 536.157 Settlement/approval authority for claims involving tortfeasors other than nonappropriated fund employees.

(a) *Settlement authority.* TJAG, TAJAG, and the Commander USARCS are authorized to approve in full or in part, or deny a non-NAFI RIMP claim, regardless of the amount claimed, except where an apportioned amount to be paid from APFs exceeds their monetary authority and the action of the Attorney General or Assistant General Counsel is required as set forth in § 536.151(a).

(b) *Approval authority.* (1) The staff judge advocate, Commander or chief of a command claims service, and a head of an area claims office are authorized to approve in full or in part non-NAFI RIMP claims presented in the amount of \$50,000 or less, provided the acceptance is in full settlement and all claims and potential claims arising out of a single incident do not exceed \$100,000.

(2) The above authorities are not delegated authority to deny or make a final offer on a claim under this section. Claims requiring such action will be forwarded to the Commander USARCS with an appropriate recommendation.

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(c) *Finality of settlement.* A denial or final offer on a non-NAFI RIMP claim is final and conclusive and is not subject to reconsideration or appeal.

PART 537—CLAIMS ON BEHALF OF THE UNITED STATES

Sec.

- 537.1 Statutory authority for non-maritime claims.
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- 537.17 Scope for civil works claims of maritime nature.
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- 537.20 Certification to Congress.

AUTHORITY: 31 U.S.C. 3711-3720E; 42 U.S.C. 2651-2653; 10 U.S.C. 1095; 10 U.S.C. 4803-4804; 33 U.S.C. 408.

SOURCE: 71 FR 69403, Nov. 30, 2006, unless otherwise noted.

§ 537.1 Statutory authority for non-maritime claims.

(a) *The Federal Claims Collection Act.* The Federal Claims Collection Act (FCCA), is set forth at 31 U.S.C. 3711-3720E, as amended by the Debt Collection Act of 1982, Public Law 97-365, 96 Stat. 1749 (October 1982), Public Law 101-552, 104 Stat. 2746 (November 1990).

(b) *Federal Medical Care Recovery Act.* The Federal Medical Care Recovery Act (FMCRA) is set forth at 42 U.S.C. 2651-53, as amended by the National Defense Authorization Act for Fiscal Year 1997, Public Law 104-202, section 1075, 110 Stat. 2422.

(c) *Title 10 United States Code Section 1095.* 10 U.S.C. 1095, Public Law 101-510, section 713, 107 Stat. 1547, 1689 (1993), as

amended by Public Law 103-160, 104 Stat. 1485 (November 1990).

NOTE TO § 537.1: All of these statutes may be viewed on the USARCS Web site, [https://www.jagcnet.army.mil/85256F33005C2B92/\(JAGCNETDocID\)/HOME?OPENDOCUMENT](https://www.jagcnet.army.mil/85256F33005C2B92/(JAGCNETDocID)/HOME?OPENDOCUMENT). Select the link "Claims Resources."

§ 537.2 Scope of non-maritime affirmative claims statutes.

(a) *Recovery for government property loss or damage.* The FCCA, originally passed in 1966, gives federal agencies the authority to collect a claim of the United States government for money or property arising out of the activities of the agency in question. However, the broad authority is limited for purposes of this regulation to claims for loss of or damage to property, as the FMCRA takes precedence for medical care recoveries.

(b) *Recovery for medical expenses and lost military pay.* (1) The FMCRA, passed in 1962, authorizes recovery from a third person of the expenses for medical care the United States furnishes to a person who is injured or suffers a disease when such care is authorized or required by law. Likewise the United States is authorized to recover the cost of pay for members of the uniformed services unable to perform duties. Recovery normally arises out of a third-party tort under local law as to which the United States has an independent cause of action.

(2) Under 10 U.S.C. 1095 the United States is also deemed a third-party beneficiary or subrogee under an alternative system of computations such as workers' compensation; hospital lien laws; contract rights under the terms of insurance policies including medical payment coverage; uninsured, underinsured and no-fault coverage; and no-fault laws.

(c) *Recovery of health insurance.* 10 U.S.C. 1095 permits recovery of health insurance for medical care furnished at military medical treatment facilities (MTFs), including supplemental policies. This third-party collection program has been delegated to the Surgeon General of the Army by the Judge Advocate General (TJAG).

(d) *Worldwide applicability.* The foregoing authorities are worldwide in application, except for intergovernmental